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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
Against:

Case No. 2013-382

12 **MAY LAZO AKA MAY LAZO SCOTT**
13 **11746 Bellagio Rd. #206**
14 **Los Angeles, CA 90049**

FIRST AMENDED
A C C U S A T I O N

15 **Registered Nurse License No. 643287**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about August 19, 2004, the Board of Registered Nursing issued Registered
23 Nurse License Number 643287 to May Lazo aka May Lazo Scott (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on June 30, 2014, unless renewed.

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only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

9. Section 2052 of the Code states in part:

(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment....

10. Section 2725.1 of the Code states:

Notwithstanding any other provision of law, a registered nurse may dispense drugs or devices upon an order by a licensed physician and surgeon if the nurse is functioning within a licensed clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1204 of, or within a clinic as defined in subdivision (b) or (c) of Section 1206, of the Health and Safety Code.

No clinic shall employ a registered nurse to perform dispensing duties exclusively. No registered nurse shall dispense drugs in a pharmacy, keep a pharmacy, open shop, or drugstore for the retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs by a registered nurse, except a certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51 or a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, shall not include substances included in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from the provisions of Article 13 (commencing with Section 4180) of Chapter 9.

11. Section 2726 of the Code states, "Except as otherwise provided herein, this chapter confers no authority to practice medicine or surgery."

12. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

1 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

2 (1) Incompetence, or gross negligence in carrying out usual certified or
3 licensed nursing functions.

4 ...

5 (d) Violating or attempting to violate, directly or indirectly, or assisting
6 in or abetting the violating of, or conspiring to violate any provision or term of
this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

7 ...

8 (f) Conviction of a felony or of any offense substantially related to the
9 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

10 ...

11 (i) Aiding or assisting, or agreeing to aid or assist any person or persons,
12 whether a licensed physician or not, in the performance of, or arranging for, a
violation of any of the provisions of Article 12 (commencing with Section
2220) of Chapter 5....

13 13. Title 16, California Code of Regulations, section 1442, states:

14 As used in Section 2761 of the code, 'gross negligence' includes an
15 extreme departure from the standard of care which, under similar
16 circumstances, would have ordinarily been exercised by a competent registered
17 nurse. Such an extreme departure means the repeated failure to provide nursing
care as required or failure to provide care or to exercise ordinary precaution in a
single situation which the nurse knew, or should have known, could have
jeopardized the client's health or life.

18 14. Title 16, California Code of Regulations, section 1443, states:

19 As used in Section 2761 of the code, "incompetence" means the lack of
20 possession of or the failure to exercise that degree of learning, skill, care and
21 experience ordinarily possessed and exercised by a competent registered nurse
as described in Section 1443.5.

22 15. Title 16, California Code of Regulations, section 1444, states:

23 A conviction or act shall be considered to be substantially related to the
24 qualifications, functions or duties of a registered nurse if to a substantial degree
it evidences the present or potential unfitness of a registered nurse to practice in
25 a manner consistent with the public health, safety, or welfare. Such convictions
or acts shall include but not be limited to the following:

26 (a) Assaultive or abusive conduct including, but not limited to, those
27 violations listed in subdivision (d) of Penal Code Section 11160.

28 (b) Failure to comply with any mandatory reporting requirements.

1 (c) Theft, dishonesty, fraud, or deceit.

2 (d) Any conviction or act subject to an order of registration pursuant to
3 Section 290 of the Penal Code.

4 16. Title 16, California Code of Regulations, section 1445, states in part:

5 (b) When considering the suspension or revocation of a license on the
6 grounds that a registered nurse has been convicted of a crime, the board, in
7 evaluating the rehabilitation of such person and his/her eligibility for a license
8 will consider the following criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or offense(s).

12 (4) Whether the licensee has complied with any terms of parole,
13 probation, restitution or any other sanctions lawfully imposed against the
14 licensee.

15 (5) If applicable, evidence of expungement proceedings pursuant to
16 Section 1203.4 of the Penal Code.

17 (6) Evidence, if any, of rehabilitation submitted by the licensee.

18 COST RECOVERY

19 17. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
23 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
24 included in a stipulated settlement.

25 FACTS

26 18. On or about December 8, 2009, the Medical Board of California received an
27 anonymous complaint that S.P., of Advanced Body Solutions, was performing esthetic medical
28 procedures without a license. Advanced Body Solutions is licensed by the Board of Barbering
and Cosmetology to provide cosmetology services. Advanced Body Solutions is not registered
with the Medical Board to provide professional medical services or to practice medicine.

19. On August 4, 2011, investigators of the Medical Board, T.M., T.C. and C.M.
conducted an undercover investigation of Advanced Body Solutions. T.C. inquired about Botox

1 treatments. S.P., who was not a licensed physician, looked at T.C.'s forehead and stated that she
2 needed Botox in her forehead area and estimated "25-30 units" would be required. S.P. advised
3 that "May" would be giving the injections. T.C. made an appointment for Botox treatment on
4 September 13, 2011.

5 20. At about 1100 hours on September 13, 2011, T.C. and C.M. returned to Advanced
6 Body Solutions for the scheduled appointment. Upon entering the facility, T.C. advised the
7 person at the front desk that she had an appointment for Botox. A few minutes later, T.C. was
8 approached by Respondent, who advised T.C. that she was a nurse.

9 21. Respondent escorted T.C. and C.M. to a treatment room where Respondent instructed
10 T.C. to lie on the examination table in preparation for the Botox injection. Respondent advised
11 T.C. that she has done Botox injections "dozens and dozens of times." Respondent advised T.C.
12 that she would be performing a series of "light injections" consisting of five injections on the
13 frown lines between T.C.'s eyebrows and five injections on her forehead. Respondent stated that
14 she estimated she would use 24 cc's of Botox and gave T.C. a price estimate of \$240.
15 Respondent discussed the possible side effects from the Botox and explained what to expect after
16 the Botox injections. Respondent then cleaned T.C.'s forehead with alcohol. T.C. observed
17 Respondent remove a sterile syringe and needle from the packaging and insert the needle into the
18 Botox canister. At this point, T.C. excused herself to use the restroom. The procedure did not
19 proceed since other investigators from the Medical Board entered the facility and announced they
20 were conducting an undercover investigation.

21 22. At no time prior to preparing T.C. for injection with Botox was T.C. examined by a
22 physician, nurse practitioner or physician's assistant as is the standard of care for registered
23 nurses in California. Botox is an injectable drug that requires a prescription in California. Botox
24 may cause complications when injected into patients with specific medical conditions and/or
25 allergies.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Gross Negligence)**

3 23. Respondent is subject to disciplinary action under Code section 2761(a)(1) for gross
4 negligence in that Respondent administered Botox injections to customers of Advanced Body
5 Solutions, and attempted to inject T.C. with Botox, without an examination by a physician and a
6 prescription for Botox. This conduct constitutes an extreme departure from the standard of care,
7 which, under similar circumstances, would have ordinarily been exercised by a competent
8 registered nurse, as more fully set forth in paragraphs 18-22 above and incorporated herein as
9 though set forth in full.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Incompetence)**

12 24. Respondent is subject to disciplinary action under Code section 2761(a)(1) for
13 incompetence in that Respondent lacked possession of, or failed to exercise that degree of
14 learning, skill, care and experience ordinarily possessed and exercised by a competent registered
15 nurse, by administering Botox injections to customers of Advanced Body Solutions and
16 attempting to inject T.C. with Botox, without an examination by a physician or a prescription for
17 Botox. The conduct is more fully set forth in paragraphs 18-22 above and incorporated herein as
18 though set forth in full.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct – Violation of Nursing Practice Act)**

21 25. Respondent is subject to disciplinary action under Code section 2761(d), in
22 conjunction with Code sections 2725.1 and 2726, for violating or attempting to violate, any
23 provision or term the Nursing Practice Act by practicing medicine without a license in that
24 Respondent administered Botox injections, a prescription drug, without an initial consultation
25 with a physician and without a prescription. The conduct is more fully set forth in paragraphs 18-
26 22 above and incorporated herein as though set forth in full.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 26. Respondent is subject to disciplinary action under Code section 2761(a) for
4 unprofessional conduct in that Respondent administered Botox injections to customers of
5 Advanced Body Solutions and attempted to inject T.C. with Botox, without an examination by a
6 physician or a prescription for Botox. The conduct is more fully set forth in paragraphs 18-22
7 above and incorporated herein as though set forth in full.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct – Aiding in the Practice of Medicine)**

10 27. Respondent is subject to disciplinary action under Code section 2761(i) for
11 unprofessional conduct in that Respondent aided Advanced Body Solutions and its owners or
12 officers in the unlicensed practice of medicine by administering Botox injections to customers of
13 Advanced Body Solutions and attempting to inject T.C. with Botox, without an examination by a
14 physician or a prescription for Botox. The conduct is more fully set forth in paragraphs 18-22
15 above and incorporated herein as though set forth in full.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(October 11, 2012 Conviction of Practicing Medicine**
18 **Without a License on September 13, 2011)**

19 28. Respondent is subject to disciplinary action under Code sections 490 and 2761(f) for
20 conviction of a crime that is substantially related to the qualifications, functions and duties of a
21 registered nurse in that on October 11, 2012 in *The People of the State of California v. May Lazo,*
22 *et al.*, San Diego Superior Court, Case No. CD242274, Respondent was convicted on her guilty
23 plea of unlawfully practicing and holding herself out as practicing, a system and mode of treating
24 the sick and afflicted, and diagnosed, treated, and prescribed for an ailment, blemish, or deformity
25 of T.C. on September 13, 2011, without having a valid physician's or surgeon's certificate, in
26 violation of Business and Professions Code section 2052(a).

29. The circumstances that led to the conviction are more fully set forth in paragraphs 18-22 above and incorporated herein as though set forth in full.

30. As a result of the conviction, Respondent was sentenced to 3 years probation, 100 hours of volunteer work, and ordered to pay \$5,000 in fines (\$2,500 of which was stayed pending successful completion of probation.)

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 643287, issued to May Lazo aka May Lazo Scott;

2. Ordering May Lazo to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: November 27, 2012 Stacie-Bear
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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